



NUCLEAR REGULATORY COMMISSION

10 CFR Parts 11, 25, and 95

[NRC-2020-0133]

RIN 3150-AK49

Access Authorization Fees

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is withdrawing a direct final rule that would have updated the access authorization fees charged to NRC licensees for work performed under the Material Access Authorization Program and the Information Access Authority Program. The direct final rule also would have made two administrative changes to revise definitions to include new naming conventions for background investigation case types and to specify the electronic process for completing security forms. The NRC is taking this action because it has received a significant adverse comment in response to the companion proposed rule that was published with the direct final rule.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], the NRC withdraws the direct final rule published at 86 FR 73631 on December 28, 2021.

ADDRESSES: Please refer to Docket ID NRC-2020-0133 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2020-0133. Address questions about NRC dockets to Dawn Forder; telephone: 301-415-3407; email: Dawn.Forder@nrc.gov. For technical

questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the SUPPLEMENTARY INFORMATION section.

- **NRC's PDR:** You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Vanessa Cox, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001, telephone: 301-415 8342, email: Vanessa.Cox@nrc.gov.

SUPPLEMENTARY INFORMATION: On December 28, 2021 (86 FR 73631), the NRC published in the *Federal Register* a direct final rule that would have amended parts 11, 25, and 95 of title 10 of the *Code of Federal Regulations* to update the access authorization fees charged to NRC licensees for work performed under the Material Access Authorization Program and the Information Access Authority Program. The direct final rule also would have made two administrative changes to revise definitions to include new naming conventions for background investigation case types and to specify the electronic process for completing security forms. The direct final rule was to become effective on March 14, 2022.

The NRC also concurrently published a companion proposed rule on December 28, 2022 (86 FR 73685). In the proposed rule, the NRC stated that if any significant adverse comments were received, then the NRC would withdraw the direct final rule by publishing a notice in the *Federal Register*. In that event, the direct final rule would not take effect.

The NRC received a significant adverse comment on the proposed rule that accompanied the direct final rule; therefore the NRC is withdrawing the direct final rule. The comment was submitted by the Nuclear Energy Institute, a private organization. The comment (ADAMS Accession No. ML22025A233) is available at www.regulations.gov by searching on Docket ID NRC-2020-0133. The comment states that the direct final rule did not provide sufficient information to explain the proposed increase in authorization fees. Specifically, the comment questions why the NRC selected the revised number and how authorization applications are becoming more complex. Additionally, the comment requests that the NRC consider phasing in the proposed fee increase and takes issue with the direct final rule's conclusion that the NRC has not adjusted its fees since 2012. The NRC considers the comment to be a significant adverse comment as defined in Section II, Rulemaking Procedure, of the direct final rule because the comment raises an issue serious enough to warrant a substantive response to clarify or complete the record.

As stated in the December 28, 2021, proposed rule, the NRC will address the comment in a subsequent final rule. The NRC will not initiate a second public comment period on this action.

Dated: March 2, 2022.

For the Nuclear Regulatory Commission.

Daniel H. Dorman,
Executive Director for Operations.

